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No. 83-1938

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Appellant,

v.

WESTINGHOUSE ELECTRIC CORPORATION,
Appellee.

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

SUPPLEMENTAL BRIEF ON BEHALF OF APPELLEE

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SUPPLEMENTAL BRIEF ON BEHALF OF APPELLEE

Pursuant to Rule 16.6 of the Rules of this Court, Appellee Westinghouse Electric Corporation ("Westinghouse") files this supplemental brief to direct the Court's attention to *EEOC v. CBS, Inc.*, No. 84-6063 (2d Cir. Aug. 28, 1984),[1] which was decided after Westinghouse filed its Motion to Affirm in this action.

[1] The Second Circuit's decision in *EEOC v. CBS, Inc., supra,* is reprinted in Daily Lab. Rep. (BNA), No. 170 (Aug. 31, 1984) at D-1. Copies of the court of appeals' slip opinion in *EEOC v. CBS, Inc.* have been lodged with the Clerk of this Court.

In *EEOC v. CBS, Inc., supra,* the Court of Appeals for the Second Circuit held unconstitutional Reorganization Plan No. 1 of 1978, 92 Stat. 3781, the constitutionality of which is directly challenged in this case. The Second Circuit's decision in *EEOC v. CBS, Inc.* is contrary to other decisions that have been handed down by courts of appeals in the Fifth and Sixth Circuits, respectively.[2]

The split among the Circuits which now exists with respect to Reorganization Plan No. 1's constitutionality reinforces the importance of the underlying substantive issues raised in the instant action. For this reason, and for the reasons set forth in Appellee's Motion to Affirm, Appellee Westinghouse Electric Corporation requests that this Court exercise its jurisdiction under 28 U.S.C. § 1252 and affirm the judgment order of the district court.

Respectfully submitted,

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Dated: September 18, 1984

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[2] *See EEOC v. Hernando Bank, Inc.*, 724 F.2d 1188 (5th Cir. 1984); *Muller Optical Co. v. EEOC*, No. 83-5889 (6th Cir. Sept. 4, 1984), reprinted in Daily Lab. Rep. (BNA), No. 174 (Sept. 7, 1984) at D-1.